

File No. WH-101-CM

ATTORNEY ID 050371991

FISHMAN MCINTYRE LEVINE SAMANSKY, P.C.

120 Eagle Rock Avenue

East Hanover, New Jersey 07936

Tel: (973) 560-9000

Fax: (973) 560-0060

Attorneys for Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ANA BREA and JORGE RICARDO	:	
	:	
Plaintiffs	:	
	:	
vs.	:	CIVIL ACTION NO.
	:	
WHOLE FOODS MARKET, JOHN DOE,	:	
JOHN DOES 2-10, ABC INC. 1-10 and	:	
XYZ CO. 1-10	:	
	:	
Defendants	:	
	:	

PETITION FOR REMOVAL

Petitioner, Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market by its attorneys, Fishman McIntyre Levine Samansky, P.C., respectfully petitions the United States District Court for the District of New Jersey as follows:

1. Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market first received a copy of the Complaint on or about March 11, 2022 through their registered agent.
2. This case was commenced on March 9, 2022 in the Superior Court of New Jersey, Law Division, Bergen County Suit is identified in the Superior Court as Brea, Ana and Ricardo, Jorge v. Whole Foods Market, Docket No. L-1373-22. (See Exhibit A)
3. The filing of this Petition for Removal is timely because it is filed within thirty days of the date Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market first received

4. The plaintiff's Complaint in the Superior Court of New Jersey, Law Division, Bergen County, asserts damages of a non-specified amount. Plaintiff alleges in the Complaint that defendant allowed a dangerous condition to exist, namely an employee pushing a trolley with boxes, which in turn struck the plaintiff causing her to fall and sustain severe and permanent injuries. As such, Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market believes that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

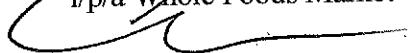
5. Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market is informed and believes that Plaintiff, Ana Brea, is an individual citizen of the State of New Jersey. Defendant/petitioner, Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market is incorporated in the State of Delaware and its principal place of business is in the State of Texas. The action is therefore between citizens and a corporation of other states.

6. Accordingly, this action is removable to this Court pursuant to 28 U.S.C. § 1441.
WHEREFORE, Petitioner, Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market in the action described herein, which is currently pending in the Superior Court of the State of New Jersey, Law Division, Bergen County, Docket No. L-1373-22, prays that this action be removed therefrom to this Court.

DATED: March 15, 2022

Defendants, Whole Foods Market Group, Inc.
i/p/a Whole Foods Market

BY:


Christopher E. McIntyre, Esq.

I certify that a true copy of the Complaint filed in the Superior Court of the State of New Jersey, County of Bergen, along with a copy of the Summons issued to this defendant, is annexed hereto as Exhibit A.

BY:


Christopher E. McIntyre, Esq.

EXHIBIT A

PETER N. DAVIS & ASSOCIATES
Nicholas Barone, Esq.
Attorney ID No.: 008721984
100 Hamilton Plaza, Suite 420
Paterson, New Jersey 07505
(973) 279-7246
Attorneys for Plaintiffs, Ana Brea & Jorge Ricardo
Our File No.: 207525

ANA BREA AND JORGE RICARDO,

Plaintiff,

vs.

Defendants,

WHOLE FOODS MARKET, JOHN
DOE, JOHN DOES 2-10, ABC INC. 1-10
AND XYZ CO. 1-10.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

DOCKET NO. BER-L-

Civil Action

COMPLAINT, JURY DEMAND,
DESIGNATION OF TRIAL COUNSEL
and CERTIFICATION PURSUANT TO
R. 4:5-1

The Plaintiffs, Ana Brea and Jorge Ricardo, residing at 300 Avalon Drive, in the Borough of Wood-Ridge, County of Bergen, and State of New Jersey, by way of Complaint against the Defendants, say:

FIRST COUNT

1. On or about October 4, 2020, the Plaintiff, Ana, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, State of New Jersey.
2. On or about the same time and place, the Defendant, Whole Foods Market, owned and/or operated and/or managed and/or maintained and/or was charged with the duty of care to the aforesaid premises, located at 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, State of New Jersey.
3. On or about the same time and place, the Defendant, Whole Foods Market, negligently and carelessly owned and/or operated and/or managed and/or maintained and/or discharged their duty of

care to the aforesaid premises, by allowing a dangerous condition to exist, namely an employee pushing a trolley with boxes, which in turn struck the Plaintiff, causing her to fall.

4. As a direct and proximate result of the negligence of the Defendant, Whole Foods Market as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

WHEREFORE, the Plaintiff, Ana Brea, demands judgment for damages against Defendant, Whole Foods Market, together with interest, costs of suit and attorney's fees.

SECOND COUNT

1. The Plaintiff, Ana Brea, repeats each and every allegation of the First Count as if set forth at length herein.

2. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, John Doe, negligently and carelessly pushed a trolley with boxes on the same, which in turn struck the Plaintiff, causing her to fall.

4. As a direct and proximate result of the negligence of the Defendant, John Doe, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

WHEREFORE, the Plaintiff, Ana Brea, demands judgment for damages against the Defendant, John Doe, together with interest, cost of suit and attorney's fees.

THIRD COUNT

1. Plaintiff, Ana Brea, repeats each and every allegation of the First and Second Counts of the Complaint as if set forth at length herein.

2. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, John Doe, was the agent, servant, and/or employee of the Defendant, Whole Foods Market.

4. As a direct and proximate result of the negligence of the Defendant, Whole Foods Market, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

WHEREFORE, Plaintiff, Ana Brea, demands judgment for damages against Defendant, Whole Foods Market, together with interest, costs of suit and attorney's fees.

FOURTH COUNT

1. Plaintiff, Ana Brea, repeats each and every allegation of the First through Third Counts of the Complaint as if set forth at length herein.

2. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, John Does 2-10, owned and/or operated and/or managed and/or maintained and/or was charged with the duty of care to the aforesaid premises, located at 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

BER-L-001373-22 03/09/2022 9:42:53 AM Pg 4 of 7 Trans ID: LCV2022968908

4. On or about the same time and place, the Defendant, John Does 2-10, negligently and carelessly owned and/or operated and/or managed and/or maintained and/or discharged their duty of care to the aforesaid premises, by allowing a dangerous condition to exist, namely an employee pushing a trolley with boxes, striking the plaintiff, and causing her to fall.

5. As a direct and proximate result of the negligence of the Defendant, John Does 2-10, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

WHEREFORE, Plaintiff, Ana Brea, demands judgment for damages against Defendant, John Does 2-10, together with interest, costs of suit and attorney's fees.

FIFTH COUNT

Plaintiff, Marjorie Wilson, repeats each and every allegation of the First through Fourth Counts of the Complaint as if set forth at length herein.

1. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

2. On or about the same time and place, the Defendant, ABC Inc. 1-10, owned and/or operated and/or managed and/or maintained and/or was charged with the duty of care to the aforesaid premises, located at 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, ABC Inc. 1-10, negligently and carelessly owned and/or operated and/or managed and/or maintained and/or discharged their duty of care to the aforesaid premises, by allowing a dangerous condition to exist, namely an employee pushing a trolley with boxes, striking the plaintiff, which in turn caused the Plaintiff to fall.

4. As a direct and proximate result of the negligence of the Defendant, ABC Inc. 1-10, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

WHEREFORE, Plaintiff, Ana Brea, demands judgment for damages against Defendant, ABC Inc. 1-10, together with interest, costs of suit and attorney's fees.

SIXTH COUNT

Plaintiff, Ana Brea, repeats each and every allegation of the First through Fifth Counts of the Complaint as if set forth at length herein.

1. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

2. On or about the same time and place, the Defendant, XYZ Co. 1-10, owned and/or operated and/or managed and/or maintained and/or was charged with the duty of care to the aforesaid premises, located at 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, XYZ Co. 1-10, negligently and carelessly owned and/or operated and/or managed and/or maintained and/or discharged their duty of care to the aforesaid premises, by allowing a dangerous condition to exist, namely an employee pushing a trolley with boxes, which in turn struck the plaintiff and caused the Plaintiff to fall.

4. As a direct and proximate result of the negligence of the Defendant, XYZ Co. 1-10, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

BER-L-001373-22 03/09/2022 9:42:53 AM Pg 6 of 7 Trans ID: LCV2022968908

WHEREFORE, Plaintiff, Ana Brea, demands judgment for damages against Defendant, XYZ Co. 1-10, together with interest, costs of suit and attorney's fees.

SEVENTH COUNT

1. The Plaintiff, Ana Brea, repeats each and every allegation of the First through Sixth Counts of the Complaint as set forth at length herein.
2. On or about October 4, 2020, the Plaintiff, Jorge Ricardo, was and is the lawful spouse of Plaintiff, Ana Brea.
3. As a direct and proximate result of the negligence of the Defendants as aforesaid, the Plaintiff, Jorge Ricardo, has lost the care, comfort, companionship and consortium of his spouse, the Plaintiff, Lina Sanchez.

WHEREFORE, Plaintiff, Ramon Mosquera, demands judgment for damages against the Defendants, together with interest, costs of suit and attorney's fees.

PETER N. DAVIS & ASSOCIATES
Attorneys for Plaintiffs

BY: Nicholas Barone
NICHOLAS BARONE, ESQ.

DATED: March 8, 2022

BER-L-001373-22 03/09/2022 9:42:53 AM Pg 7 of 7 Trans ID: LCV2022968908

JURY DEMAND

Plaintiff hereby demand a trial by jury as to all issues so triable.

DESIGNATION OF TRIAL COUNSEL

The undersigned hereby designates NICHOLAS BARONE, ESQ. as trial counsel in the above captioned action.

CERTIFICATION PURSUANT TO R.4:5-1

The undersigned attorney for plaintiff(s) hereby certify as follows:

1. The within action is not the subject of any other action pending in any court or a pending arbitration proceeding.
2. No other action or arbitration proceeding is contemplated.
3. There are no other parties known to me who should be joined in this action.
4. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

PETER N. DAVIS & ASSOCIATES
Attorneys for Plaintiffs

BY: 
NICHOLAS BARONE, ESQ.

DATED: March 8, 2022

PETER N. DAVIS & ASSOCIATES
100 Hamilton Plaza, Suite 420
Paterson, New Jersey 07505
(973) 279-7246
Attorney for Plaintiffs
Our File No.: 207525

ANA BREA and JORGE RICARDO,

Plaintiff,

vs.

**WHOLE FOODS MARKET, JOHN
DOE, JOHN DOES 2-10, ABC INC.
1-10 and XYZ CO. 1-10,**

Defendants.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY**

Docket No: BER-L-1373-22

Civil Action

SUMMONS

**FROM THE STATE OF NEW JERSEY
TO THE DEFENDANT(S) NAMED ABOVE:**

WHOLE FOODS MARKET

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you receive this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the clerk of the Superior Court, Hughes Justice Complex, CN-971, Trenton, NJ 08625. A filing fee* payable to the Clerk of the Superior Court and a completed Case Information Statement (available for the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services Office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

/s/ MICHELLE SMITH

MICHELLE SMITH, Superior Court Clerk

Dated: March 9, 2022

Defendant to be served:
Address for Service:

**WHOLE FOODS MARKET
300 Bergen Town Center
Paramus, NJ 07652**

*\$135.00 for CHANCERY DIVISION CASES OR \$135.00 FOR LAW DIVISION CASES

BER-L-001373-22 03/09/2022 9:42:53 AM Pg 1 of 2 Trans ID: LCV2022968908

Civil Case Information Statement

Case Details: BERGEN | Civil | Part Docket# L-001373-22

Case Caption: BREA ANA VS WHOLE FOODS MARKET	Case Type: PERSONAL INJURY
Case Initiation Date: 03/09/2022	Document Type: Complaint with Jury Demand
Attorney Name: NICHOLAS BARONE	Jury Demand: YES - 6 JURORS
Firm Name: PETER N. DAVIS & ASSOCIATES	Is this a professional malpractice case? NO
Address: 100 HAMILTON PLAZA SUITE 420	Related cases pending: NO
PATERSON NJ 07505	If yes, list docket numbers:
Phone: 9732797246	Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO
Name of Party: PLAINTIFF : Brea, Ana	Are sexual abuse claims alleged by: Ana Brea? NO
Name of Defendant's Primary Insurance Company (if known): GALLAGHER BASSETT	Are sexual abuse claims alleged by: Jorge Ricardo? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE!
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, Is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b)

03/09/2022
Dated

/s/ NICHOLAS BARONE
Signed